

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7081 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE SHARAD D.DAVE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

CAMBAY MADHYASTHA GRAHAK SAHAKARI MANDLI LTD

Versus

NARENDRAKUMAR R PANDY

Appearance:

1. Special Civil Application No. 7081 of 1988
MR PM RAVAL for Petitioner No. 1
MR MA BUKHARI for Respondent No. 1
-

CORAM : MR.JUSTICE SHARAD D.DAVE

Date of decision: 30/10/2001

C.A.V. JUDGEMENT

1. The petitioner has preferred this Special Civil
Application, being aggrieved and dissatisfied with the
judgment and order in Review Application No. 2 of 88

decided by the Gujarat State Co-operative Tribunal on 26.7.1988.

2. It is the case of the petitioner-original plaintiff in Lavad Case no. 1503 of 85 before the Registrar's Nominees, wherein an award was passed on 3.8.87 against the respondent-defendant. Against the said decision and award, the respondent-defendant filed an appeal before the Gujarat State Cooperative Tribunal being appeal no. 224 of 1987. The Tribunal, while setting aside the ex-parte award, remanded the matter and directed the respondent to deposit Rs.25,000/- with the petitioner-plaintiff before 31st January, 1988. The respondent, being aggrieved by the condition imposed, preferred a Special Civil Application no. 396 of 88. The same was withdrawn by him, however, prayed for extension of time for depositing the amount. Accordingly, the time was extended upto 29th February, 1988. Surprisingly, instead of complying with the order, the respondent approached the Gujarat State Cooperative Tribunal by filing Review Application No. 2 of 88 raising various contentions including the contention that the order of depositing Rs.25,000/- was against the facts of the case and evidence on record etc. The Tribunal, by its order dated 26th July, 1988 modified the order of depositing Rs.25,000/- and directed the respondent to give security of Rs.25,000/-. It is against this order that the petitioner has approached this Court.

3. Heard the learned advocate for the petitioner. Though, sufficient time was granted to the other side, neither the respondent nor his advocate bothered to appear. Hence, the matter was heard ex-parte.

4. The learned advocate for the petitioner Mr. Haren P. Raval submitted that though this Court ordered for the extension of time for one more month in the Special Civil Application filed by the respondent herein, the learned Tribunal has disregarded the order of the High Court and thereby exceeded the jurisdiction not vested in it. The attention was drawn of the Tribunal of the order passed by the High Court, in spite of that the Tribunal has exceeded his power thereby committed grave mistake by allowing the review petition. Under the circumstances, the interference of this Court is required to set right the order by allowing the present Special Civil Application.

5. In the instant case, though it was not the case of the respondent before the Tribunal that new facts or evidence is discovered and was not produced by the appellant before the Tribunal, the Tribunal reviewed its

own order which is not in accordance with law. By passing the impugned order, the Tribunal has exceeded the jurisdiction not vested in it and thereby caused the miscarriage of justice.

6. In view of the aforesaid circumstances, this Special Civil Application deserves to be allowed and is allowed with cost. Rule made absolute. Interim relief, if any, is confirmed. The Board of Nominee is hereby directed to dispose of the Lavad Case no. 1503 of 1985 as early as possible as the suit is of 1985.

(SHARAD D DAVE, J)

srilatha